

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF VIRTUAL PUBLIC HEARING**

TIME AND PLACE: **Monday, April 26, 2021, @ 4:00 p.m.**
**WebEx or Telephone – Instructions will be provided on the
OZ website by Noon of the Hearing Date¹**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

**Z.C. Case No. 21-02 (Office of Planning - Text Amendment to Subtitles C, D, F, G, H, and K
for IZ-XL Phase #1 – Exempt Zones and Set-Aside Requirements by Construction Type)**

THIS CASE IS OF INTEREST TO ALL ANCs

On January 18, 2021, the Office of Planning (“OP”) filed a petition to the Zoning Commission (the “Commission”) proposing the following amendments to the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references herein refer unless otherwise specified):

- Subtitle C, General Rules - § 1003
- Subtitle D, Residential House (R) Zones - §§ 205, 302, & 5206
- Subtitle F, Residential Apartment (RA) Zones - §§ 105, 302, 304, 602, & 604
- Subtitle G, Mixed-Use (MU) Zones - §§ 104, 502, 503, 504, 802, & 804
- Subtitle H, Neighborhood Mixed-Use (NC) Zones - §§ 103, 702, & 703
- Subtitle K, Special Purpose Zones - § 501

OP proposed the text amendment to expand the applicability of the existing Inclusionary Zoning program to zones currently exempt, other than the D, R-1-A, and R-1-B zones, and will increase the height threshold of the current set-aside requirement from 50 feet to 85 feet. This is the first phase of amendments for additional inclusionary housing opportunities, which is known as IZ-XL.

At its January 28, 2021 public meeting, the Commission voted to grant OP’s request to set down the proposed text amendment for a public hearing and authorized flexibility for OP to work with the Office of the Attorney General to refine the proposed text and add any conforming language as necessary.

The complete record in the case can be viewed online at the Office of Zoning’s Interactive Zoning Information System (IZIS), at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows (text to be deleted is marked in ~~bold and strikethrough~~ text; new text is shown in **bold and underline** text).

¹ Anyone who wishes to participate in this case but cannot do so via WebEx or telephone, may submit written comments to the record. (See p. 9, *How to participate as a witness – written statements.*)

The proposed amendments to the text of the Zoning Regulations² are as follows (text to be deleted is marked in bold and strikethrough text; new text is shown in bold and underline text):

I. Proposed Amendments to Subtitle C, GENERAL RULES

Subsections 1003.1 and 1003.2 of § 1003, SET-ASIDE REQUIREMENTS, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

1003.1 An Inclusionary Development other than an IZ Plus Inclusionary Development that does not employ Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit, exclusive of any bonus height, of **fifty eighty-five** feet (~~50 85~~ ft.) or less, shall set aside for Inclusionary Units the sum of the following:

...

1003.2 An Inclusionary Development other than an IZ Plus Inclusionary Development that employs Type I construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units, or which is located in a zone with a by-right height limit, exclusive of any bonus height, that is greater than **fifty eighty-five** feet (~~50 85~~ ft.), shall set aside for Inclusionary Units the sum of the following:

...

II. Proposed Amendment to Subtitle D, RESIDENTIAL HOUSE (R) ZONES

Section 105, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO RESIDENTIAL HOUSE (R) ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended to read as follows:

105.1 The Inclusionary Zoning (IZ) requirements and the available IZ modifications to certain development standards, shall apply to the R-2, R-3 (~~except for the portion in the Anacostia Historic District~~), R-10, R-13, R-17, and R-20 zones as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle.

Section 302, DENSITY – LOT DIMENSIONS, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended by revising §§ 302.2-302.5, to read as follows:

302.1 Except as provided in other provisions of this title ...

² The following text incorporates the amendments proposed to be adopted by the Notice of Second Proposed Rulemaking in Z.C. Case No. 20-02 published in the *D.C. Register* on February 26, 2021. Many of the following provisions are also subject to proposed amendments in Z.C. Case Nos. 14-13E, 19-27, 19-27A, and 19-27B. Upon final action in these cases, these proposed amendments will be updated to reflect the new text.

- 302.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall not apply to the R-1-A and R-1-B zones, ~~or to that portion of the Anacostia Historic District within the R-3 zone.~~
- 302.3 Except as provided in Subtitle D § 302.4, the minimum dimensions of lots for Mandatory Inclusionary Developments in the R-2 and R-3 ~~(other than that portion in the Anacostia Historic District)~~ zones, shall be as set forth in the following table, which incorporates the IZ modifications authorized by Subtitle C § 1002.2:
...
- 302.4 The minimum lot width for Mandatory Inclusionary Developments in the R-2 and R-3 ~~(other than that portion in the Anacostia Historic District)~~ zones may be reduced to no less than as set forth in the following table if granted as a special exception pursuant to Subtitle D § 5206.1 by the Board of Zoning Adjustment.
- 302.5 Voluntary Inclusionary Developments in the R-2 and R-3 ~~(other than that portion in the Anacostia Historic District)~~ zones shall require special exception relief pursuant to Subtitle D § 5206.2 to utilize the following IZ modifications, authorized by Subtitle C § 1002.2:
...

Section 5206, SPECIAL EXCEPTIONS FOR MODIFICATIONS FOR INCLUSIONARY DEVELOPMENTS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended to read as follows:

- 5206.1 For Mandatory Inclusionary Developments in the R-2, R-3 ~~(except that portion in the Anacostia Historic District)~~, R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.4, 502.4, 702.4, 1002.3, and 1202.4.
- 5206.2 For Voluntary Inclusionary Developments in the R-2, R-3 ~~(except that portion in the Anacostia Historic District)~~, R-10, R-13, R-17, and R-20 zones, the Board of Zoning Adjustment may grant special exception relief from minimum lot width and lot area requirements pursuant to Subtitle X, Chapter 9 as established by Subtitle D §§ 302.5, 502.5, 702.5, 1002.4, and 1202.5. Relief granted pursuant to this subsection shall not require additional relief pursuant to Subtitle D § 5206.1.

III. Proposed Amendment to Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES

Section 105, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO RESIDENTIAL APARTMENT (RA) ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

- 105.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications to certain development standards and bonus density, shall apply to all RA zones as

specified in Subtitle C, Chapter 10, Inclusionary Zoning, and the zone-specific development standards of this subtitle, ~~provided that in the RA-5 and RA-10 zones the IZ requirements, modifications, and bonus density shall not apply except that IZ Plus Inclusionary Developments shall be subject to the IZ requirements of Subtitle C, Chapter 10.~~

Section 302, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended by deleting § 302.2, renumbering and revising current § 302.3, to read as follows:

~~302.2~~ ~~Except for the IZ Plus Inclusionary Developments, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the RA-5 zone.~~

302.3 302.2 The maximum permitted FAR for Inclusionary Developments in the RA-1 through RA-~~4~~5 zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table; provided that in the RA-1 zone Voluntary Inclusionary Developments shall require special exception relief pursuant to Subtitle F § 5206.1 to utilize this modification:

TABLE F § 302.3: MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-1	1.08 (Voluntary Inclusionary Developments require special exception relief under Subtitle F § 5206.1)
RA-2	2.16
RA-3	3.6
RA-4	4.2
<u>RA-5</u>	<u>7.2</u>

Section 304, LOT OCCUPANCY, of Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

304.1 Except as provided in other provisions of this chapter, the maximum permitted lot occupancy shall be established for lots in the RA-1, RA-2, RA-3, RA-4, and RA-5 zones as set forth in the following table:

TABLE F § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-1	40
RA-2	60
RA-3	75
RA-4	75
RA-5	75
	<u>80 (IZ)</u>

Section 602, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended by deleting § 602.2 and renumbering and revising current § 602.3, to read as follows:

~~602.2~~ ~~Except for IZ Plus Inclusionary Developments, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the RA-10 zone.~~

602.3 ~~602.3~~ The maximum permitted FAR for Inclusionary Developments in the RA-8 ~~and through RA-9~~**10** zones, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, shall be as set forth in the following table:

TABLE F § 602.2: MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR INCLUSIONARY DEVELOPMENTS

Zone	Maximum FAR for Inclusionary Developments
RA-8	2.16
RA-9	4.2
RA-10	7.2

Section 604, LOT OCCUPANCY, of Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended to read as follows:

604.1 The maximum lot occupancy shall be established for lots in the RA-8, RA-9, and RA-10 zones as set forth in the following table:

TABLE F § 604.1: MAXIMUM PERCENTAGE OF LOT OCCUPANCY

Zone	Maximum Lot Occupancy (Percentage)
RA-8	60
RA-9	75
RA-10	75
	80 (IZ)

IV. Proposed Amendment to Subtitle G, MIXED-USE (MU) ZONES

Section 104, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

104.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all MU zones, ~~except for the portion of the MU-13 zone in the Georgetown Historic District and the MU-27 zone,~~ as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; ~~provided that new penthouse habitable space, as described in Subtitle C § 1500.11, and IZ Plus Inclusionary Developments, that are located in the portion of the MU-13 zone in the Georgetown Historic District or in the MU-27 zone shall be subject to the IZ requirements of Subtitle C, Chapter 10.~~

Subsection 502.1 of § 502, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

502.1 The maximum permitted FAR of buildings, incorporating the IZ bonus density authorized by Subtitle C § 1002.3, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G §§ 502.2 and 502.3:

TABLE G § 502.1: MAXIMUM PERMITTED LOT FLOOR AREA RATIO (FAR)

Zone	Maximum FAR	
	Maximum Total Permitted FAR	Maximum Non-Residential Use FAR
MU-11	0.5	0.5
MU-12	2.5	1.0
	3.0 (IZ)	
MU-13	4.0	2.0
	<u>4.8 (IZ)³</u>	
MU-14	6.0	5.0
	7.2 (IZ)	

Subsection 503.1 of § 503, HEIGHT, of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

503.1 The maximum permitted building height, not including the penthouse, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G § 503.3:

TABLE G § 503.1: MAXIMUM PERMITTED PENTHOUSE HEIGHT AND STORIES

Zone	Maximum Height (ft.)
MU-11	40
MU-12	45
	50 (IZ)
MU-13	60
	<u>80 (IZ)</u>
MU-14	90
	100 (IZ)

Subsection 504.3 of § 504, LOT OCCUPANCY, of Chapter 5, MIXED-USE ZONES – MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be deleted:

~~504.3 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter~~

³ The current version of the unofficial Zoning Regulations erroneously prescribes a 4.8 IZ FAR.

~~10, shall not apply to the portion of the MU-13 zone in the Georgetown Historic District.~~

Subsection 802.1 of § 802, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

802.1 The maximum permitted FAR in the MU-27 zone shall be ~~2.5 FAR with a maximum density of 1.5 FAR for non-residential use.~~ shall be as set forth in the following table:

TABLE G § 802.1: MAXIMUM PERMITTED FLOOR AREA RATIO

<u>Maximum Total FAR</u>	<u>Maximum Non-Residential FAR</u>
<u>2.5</u>	<u>1.5</u>
<u>3.0 (IZ)</u>	

Section 804, LOT OCCUPANCY, of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED-USE (MU) ZONES, is proposed to be amended to read as follows:

804.1 The maximum permitted lot occupancy for residential use in the MU-27 zone shall be sixty percent (60%), or seventy-five percent (75%) for Inclusionary Developments.

~~804.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10 shall not apply to the MU-27 zone.~~

V. Proposed Amendment to Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES

Section 103, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO NEIGHBORHOOD MIXED-USE (NC) ZONES, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

103.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all NC zones, except for Square 907 in the NC-6 zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that new penthouse habitable space, as described in Subtitle C § 1500.11, in Square 907 in the NC-6 zone shall be subject to the IZ requirements.

Section 702, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

702.1 The maximum permitted FAR ~~for permitted commercial and residential uses~~ in the NC-6 zone shall be ~~3.0.~~ as set forth in the following table:

TABLE H § 702.1: MAXIMUM PERMITTED FLOOR AREA RATIO

Maximum Total FAR	Maximum Non-Residential FAR
3.0	3.0
3.6 (IZ)	

702.2 Except for new penthouse habitable space as described in Subtitle C § 1500.11, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to **Square 907 in** the NC-6 zone.

Subsection 703.1 of § 703, HEIGHT, of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE – NC-6, of Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES, is proposed to be amended to read as follows:

703.1 The maximum permitted building height, not including the penthouse, in the NC-6 zone shall be forty-five feet (45 ft.), **or fifty-five feet (55 ft.) for Inclusionary Developments.**

VI. Proposed Amendment to Subtitle K, SPECIAL PURPOSE ZONES

Subsection 500.6 of § 500, GENERAL PROVISIONS (CG), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be deleted:

~~**500.6 — Except for IZ Plus Inclusionary Developments, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10, shall not apply to the CG-1 zone; provided that the IZ bonus density of Subtitle C § 1002.3 is available for Voluntary Inclusionary Developments in the CG-1 zone.**~~

Subsections 501.3 and 501.6⁴ of § 501, DEVELOPMENT STANDARDS (CG-1), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended to read as follows:

501.3 The maximum permitted floor area ratio (FAR) in the CG-1 zone shall be 6.0, **or 7.2 for Inclusionary Developments.**

501.6 The maximum permitted lot occupancy for residential use in the CG-1 zone shall be seventy-five percent (75%), **or ninety percent (90%) for Inclusionary Developments.**

This public hearing will be conducted in accordance with the rulemaking provisions of Subtitle Z, Chapter 5, of the Zoning Regulations as well as the text adopted by the Commission on October 15, 2020, in Z.C. Case No. 20-11, as published in the Notice of Final Rulemaking published in the D.C. Register on October 30, 2020.

How to participate as a witness – oral presentation

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to sign**

⁴ The current version of the unofficial Zoning Regulations erroneously prescribes 90% IZ lot occupancy.

up to testify at least 24 hours prior to the start of the hearing on OZ's website at <https://dcoz.dc.gov/> or by calling Donna Hanousek at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The Commission must base its decision on the record before them. The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | |
|------------------|----------------|
| 1. Organizations | 5 minutes each |
| 2. Individuals | 3 minutes each |

How to participate as a witness - written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record, provided that **all written comments and/or testimony must be submitted to the record at least 24 hours prior to the start of the hearing, unless approved by the Commission upon request to be introduced at the public hearing.** The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by e-mail to zcsubmissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Donna Hanousek at (202) 727-0789 for further assistance.

"Great weight" to written report of ANC

Subtitle Z § 406.2 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 406.3, an ANC that wishes to participate in the hearing must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

ANTHONY J. HOOD, ROBERT E. MILLER, PETER G. MAY, PETER A. SHAPIRO, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

¿Necesita ayuda para participar? Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Avez-vous besoin d'assistance pour pouvoir participer ? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

